

REMARKS

This application has been amended in a manner believed to place it in condition for allowance at the time of the next Official Action.

Claims 18-43 are pending in the application. Claims 18-42 have been amended to address formal matters. Claim 43 has been added. Support for claim 43 may be found in claim 18.

In the outstanding Official Action, claims 18-25, 28, 29, 31-38 and 41 were rejected under 35 USC §102(b) as allegedly being anticipated by U.S. Patent No. 2,749,247. Claims 30 and 42 were rejected under 35 USC §103(a) as allegedly being unpatentable over U.S. Patent No. 2,749,247 in view of BARNES et al. These rejections are respectfully traversed.

In imposing the rejections, the Official Action alleges that the Tung oil employed by U.S. Patent 2,749,247 does not appear to materially affect the characteristics of the invention, the dried coating would be essentially free of organic solvent, and the properties of the claimed invention would be expected to be the same as those of the U.S. Patent 2,749,247 composition.

However, the Official Action fails to present any evidence to support any of these positions.

Rather, the Official cites to Example 4 of the reference. The varnish composition disclosed in Example 4 comprises:

- 75 g of linseed oil,

- 50 g of estergum,
- 25 g of tung oil.

The method consists of heating separately linseed oil and estergum to 200°C. The components are then mixed and cooked at 230–250°C with constant stirring till a thread of 6 to 8 inches is obtained from the run. The temperature is brought down to 200°C and tung oil is added. In general, this method takes 3 to 6 hours. The material is cooled and 300 cc benzene and toluene mixture containing 1.5 g of cobalt linoleate is added.

According to the Official Action, this composition contains a ratio of resin to oil of 33:67.

However, it is noted that the varnishes "are prepared by cooking the mixture of ingredients at temperatures ranging from 175 to 280°C till a thread of 6 to 10 inches can be drawn when a drop of the cooked material is taken between the two fingers" and "this usually takes 3 to 6 hours". The step of obtaining a thread is an essential characteristic of the method for manufacturing varnish according to the reference.

This stands in contrast to the claimed invention. The claimed invention does not utilize such a step. As a result, it is not possible to reproduce varnishes as described in U.S. Patent 2,749,247.

Indeed, the compositions of U.S. Patent 2,749,247 do not anticipate or render obvious claims 18, 31 or 43. Indeed,

there is no indication that the recitations of e) are a feature of the U.S. Patent 2,749,247 compositions.

Applicant respectfully disagrees that the dry coating could be compared to a binder used to bind granulates according to the invention. A dry coating of paint or varnish as disclosed in the reference cannot be recovered after drying and used as binder to bind aggregates without being dissolved again in solvents. The dried varnish coating disclosed in the reference is in a form which renders it unsuitable. The dried varnish is hard and lost its ability to bind materials and more particularly to bind granulates.

Therefore, the argument that the dried coating would be expected to have the same properties is fatally flawed.

However, evidence is submitted herewith in the form of a Declaration Under Rule 132 by Jean-Eric Poirier. The Declaration Under Rule 132 provides further evidence that the claimed composition is distinct from the composition of the invention.

Thus, U.S. Patent 2,749,247 fails to anticipate the claimed invention.

Furthermore, BARNE et al. merely disclose that cobalt and manganese octanoate are top driers and barium and zirconium octanoate are through driers. This document merely teaches that some metallic octanoates are oxidative polymerization catalyst.

Thus, in view of the above, it seems to be apparent that none of the above-identified publications, alone or in combination, anticipate or render obvious the claimed invention.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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Appendix:

The Appendix includes the following item:

- Declaration Under Rule 132